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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/525,875	03/14/2000	John M. Packes JR.	99-049	7997
22927	7590	04/01/2004	EXAMINER	
WALKER DIGITAL FIVE HIGH RIDGE PARK STAMFORD, CT 06905			WHITE, CARMEN D	
			ART UNIT	PAPER NUMBER
			3714	13
DATE MAILED: 04/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/525,875

Applicant(s)

PACKES ET AL

Examiner

Carmen D. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31, 53, 54, 66 and 69 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10, 15-20, 22, 25, 26, 28-31, 53, 54, 66 and 69 is/are rejected.
- 7) ☒ Claim(s) 8-9, 11-14, 21, 23-24, 27 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

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DETAILED ACTION

RCE

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/5/04 has been entered.

Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tracy et al (6,416,408) teaches a multiplier in a lottery game.

Examiner's Response to Applicant's Remarks

Applicant's arguments with respect to claims 1-31, 53-54, 66 and 69 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 10, 15-20, 22, 25-26, 28-31, 53-54, 66 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy et al (6,648,753).

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Regarding claims 1-7, 10, 15, 17-20, 22, 25-26, 28-29, 53-54, 66 and 69, Tracy teaches a method for processing a lottery ticket sale that includes the player paying for eligibility for a multiplier option, wherein a magnitude of a multiplier is determined at random; receiving a request to purchase a set of play indicia; receiving a request to purchase eligibility for the multiplier option; associating the play indicia with the multiplier; and pricing a lottery ticket based on the price for eligibility for the multiplier option and a price of the associated play indicia (abstract; Fig. 4; col. 3, line 47-52; col. 4, lines 11-17 and lines 40-59). While Tracy teaches that the player must make a wager to qualify for the multiplier option, Tracy is silent regarding the explicit disclosure of the determination of the price for eligibility in the multiplier option. However, it is obvious to one of ordinary skill that there must be some means employed in Tracy for setting the price for the wager to play the multiplier option. Therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention to include this step in Tracy in order to vary the price for the wager to play the multiplier game. This would create more excitement and anticipation for the players.

Regarding claim 16, Tracy teaches all the limitations of the claim as discussed above. Tracy is silent regarding the lottery being an instant lottery. However, the examiner asserts that it is well known in the art to have instant (scratch-off) lottery tickets. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to include this feature in Tracy to make the lottery ticket more convenient for the player by providing quicker results.

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Regarding claims 30-31, Tracy teaches all the limitations of the claims as discussed above. Tracy is silent regarding teaching the feature of the multiplier being on a separate ticket and identifiers for the tickets. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the multiplier on a separate ticket in Tracy to provide separate proof of the multiplier option and identifiers to make it more convenient for redemption of the tickets by the players.

Allowable Subject Matter

Claims 8-9, 11-14, 21, 23-24, and 27, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The cited prior art of Tracy, particularly, as well as the previously cited prior art does not teach the features of the multiplier option that are disclosed in the instant claims.

USPTO Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. White whose telephone number is 703-308-5275. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



C. White
Patent Examiner, 3714